

CHAPTER 22 POSTSECONDARY NON-DEGREE SCHOOLS

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2200 PURPOSE

- 2200.1 The purpose of this chapter is to establish rules to implement D.C. Law 1-104, D.C. Code §§31-1601 *et seq.* (1993 Repl. Vol.), which governs the licensing of private postsecondary non-degree schools operating or incorporated in the District, which offer instruction that does not result in credit toward a college degree; and agents soliciting students in the District on behalf of such schools.

AUTHORITY: Unless otherwise noted, the authority for this chapter is §§6(b)(3) and 11 of the Educational Licensure Commission Act of 1976, D.C. Law 1-104, D.C. Code §§31-1606(a)(3) and 31-1611 (1992 Supp.), Mayor's Order 89-120.

SOURCE: Final Rulemaking published at 37 DCR 6619 (October 19, 1990).

2201 APPLICABILITY AND EXCLUSIONS

- 2201.1 This chapter shall apply to all private, postsecondary non-degree schools, and their agents; which are required to be licensed by the Commission by D.C. Law 1-104, as amended, D.C. Code §§31-1601 *et seq.* (1993 Repl. Vol.).
- 2201.2 In general, schools and agents shall be subject to this chapter, if they operate in the District or are incorporated in the District and operate elsewhere, unless excluded by law.

SOURCE: Final Rulemaking published at 37 DCR 6619 (October 19, 1990).

2202 LICENSES

- 2202.1 The Commission shall license non-degree schools subject to this chapter which the Commission determines to be in compliance with the requirements of law and this chapter.
- 2202.2 The Commission shall award a license to every school which the Commission determines complies, or can within a reasonable time comply, with all requirements of this chapter, which license may be subject to such conditions as the Commission deems necessary to achieve full compliance with this chapter.
- 2202.3 The Commission recognizes that the requirements of this chapter may not be equally applicable to each school, and may for good cause waive in whole or in part one or more of the requirements of this chapter in granting a license to a school; except that the Commission may not waive any requirement of a statute.
- 2202.4 The Commission shall issue a license for a period of not more than one (1) year beginning on November 1st and expiring on October 31st of the following year.
- 2202.5 A school shall file an application for renewal of its license at least sixty (60) days in advance of the next license year, accompanied by the required surety and license fee.
- 2202.6 A license issued at any time after the beginning of the license year shall date from the first day of the month in which the license was issued and end on the thirty-first (31st) day of October following.
- 2202.7 If a school allows its license under this chapter to expire, without the Commission's concurrence in a short-term extension to permit overcoming identified obstacles to applying for license renewal, the Commission may require the school to apply for an initial license, as if the school had never been licensed.
- 2202.8 Upon a change in ownership of a school, the school shall file with the Commission an application for amendment of its license pursuant to §2223.

- 2202.9 Nothing in this chapter shall be construed to invalidate a current license to operate a school held by any person or school on the effective date of this chapter.

SOURCE: Final Rulemaking published at 37 DCR 6619, 6620 (October 19, 1990).

2203 STANDARDS FOR LICENSURE

- 2203.1 The standards for licensure of a school by the Commission are set forth in §§2204 through 2221 of this chapter.

SOURCE: Final Rulemaking published at 37 DCR 6619, 6620 (October 19, 1990).

2204 INTEGRITY

- 2204.1 A school shall conduct its business with honesty and fair dealing with its employees, its students, the government and the public.
- 2204.2 A school shall comply with all applicable laws and regulations of the District of Columbia; with the conditions of any tax exemption, student or other financial assistance from a public agency, license or permit; and with the requirements of this chapter.

SOURCE: Final Rulemaking published at 37 DCR 6619, 6621 (October 19, 1990).

2205 MISSION

- 2205.1 A school shall have a written statement which clearly describes its mission and purposes. The statement shall describe the goals of the school in regard to the instruction of students, specialized research and public service; and its point of view and any specialized constituencies that it serves.

SOURCE: Final Rulemaking published at 37 DCR 6619, 6621 (October 19, 1990).

2206 CONTROL

- 2206.1 A school shall clearly delineate the responsibilities for control of the operation of the school and its programs, identifying the policies to be established, severally or jointly, by the following:

- (a) Its governing body;
- (b) The chief executive officer;
- (c) Other administrative officers;
- (d) Faculty members;
- (e) Students; and

(f) Others.

SOURCE: Final Rulemaking published at 37 DCR 6619, 6621 (October 19, 1990).

2207 ADMINISTRATION

2207.1 A school shall be adequately organized and administered to achieve its mission and goals.

2207.2 A school shall have the following:

- (a) An organization chart showing the principal subdivisions of the school and the title of the principal officer for each;
- (b) An adequate administrative staff, and written position descriptions for the principal administrative positions;
- (c) Clearly delineated administrative policies and procedures; and
- (d) A process for self analysis, forecasting, planning and reform of the operations and programs of the school.

SOURCE: Final Rulemaking published at 37 DCR 6619, 6621 (October 19, 1990).

2208 FINANCES

2208.1 A school shall have adequate financial resources to achieve its mission and goals.

2208.2 A school shall have the following:

- (a) Plans and arrangements for the medium and long term financial stability of the school;
- (b) Ultimate authority in the governing body to allocate financial resources and for the accountability for such resources;
- (c) An adequate staff, policies and procedures for budgeting and accounting for its resources;
- (d) A written enrollment agreement, which clearly sets forth the obligations of the school and the student;
- (e) Adequate arrangements for assuring strict compliance with the requirements of any student or school financial assistance provided by government agencies; and
- (f) An annual audit by an independent certified public accountant, or other financial statement acceptable to the Commission.

SOURCE: Final Rulemaking published at 37 DCR 6619, 6622 (October 19, 1990).

2209 INSTRUCTORS

2209.1 A school shall have a sufficient number of full-time teaching appointments to ensure continuity and stability of the educational program and to provide adequate educational association between students and faculty.

2209.2 Each instructor employed by the school shall meet the following requirements:

- (a) Hold all licenses, certificates and ratings that are necessary for the instructor to teach in the field of employment;
- (b) Have a background of education, training, or occupational experience in the specific area of teaching indicating competency to provide instruction that will assist students toward successful achievement of the objectives of the course or program; and be limited to instructing only such courses as are covered by such demonstrable competency;
- (c) Upon initial employment, have sufficiently recent educational or occupational experience to ensure current knowledge in the teaching fields; and
- (d) Be limited in course load and class size to those to which the instructor can adequately prepare for and present.

SOURCE: Final Rulemaking published at 37 DCR 6619, 6622 (October 19, 1990).

2210 INSTRUCTIONAL PROGRAM

2210.1 All courses in terms of content and length of instruction shall be of such nature and quality as to ensure reasonably that the students will adequately develop the job skills and knowledge necessary for obtaining employment in the occupation for which the instruction is offered.

2210.2 A school shall meet the following requirements for its instructional program:

- (a) The curricula and programs of study shall provide sequences of subjects leading to competence appropriate to each level of study and the requirements for certificates shall be clearly delineated;
- (b) Each course offered shall have a written outline with examination expectations;
- (c) A course or program offered by correspondence, extension, telecommunications, or in summer session shall be consistent with the objectives and purposes of the school, and shall be consistent with and comparable in quality to courses offered to students regularly enrolled on a full-time basis;

- (d) A diploma or certificate conferred in recognition of satisfactory completion of program requirements, which is earned in whole or in part by correspondence, telecommunications or other extra-mural study, shall comply with the requirements of this chapter; and
- (e) If an institution provides instruction in a field for which a professional or occupational license is required to practice in the District of Columbia, the instruction shall meet all applicable requirements of the professional or occupational licensure law, as determined by the Commission.

SOURCE: Final Rulemaking published at 37 DCR 6619, 6623 (October 19, 1990).

2211 ADMISSION REQUIREMENTS

- 2211.1 A school shall have clearly delineated, fair and objective standards for admission of students.
- 2211.2 A school shall meet the following requirements for admission of students:
 - (a) Every person admitted to instruction shall be a *bona fide* student, intending to complete the program to which admitted;
 - (b) Every first-time student admitted shall have a high school diploma or equivalent; or shall have demonstrated to the satisfaction of the school, by a method which has received the prior approval of the Commission, a reasonable ability to benefit from the proposed curriculum, and to successfully complete the educational program in which the student proposes to enroll;
 - (c) The basis for admission shall be documented in the student's record; and
 - (d) Decisions regarding admission shall be made by employees of the school whose compensation is not directly tied to the level of enrollment, and who have no direct financial interest in whether a particular individual is admitted or not.
- 2211.3 A school shall establish procedures and standards for the review of the previous education and training of each applicant, for the award of credit for the experiences the school deems appropriate and for shortening the training period accordingly.

SOURCE: Final Rulemaking published at 37 DCR 6619, 6623 (October 19, 1990).

2212 RETENTION OF STUDENTS

- 2212.1 A school shall make reasonable efforts to assure that students admitted to instruction are retained until completion of the program for which admitted, so long as their conduct and academic progress are in compliance with the applicable

rules of the school, and shall report its retention rate to the Commission as part of its application for initial license or license renewal.

SOURCE: Final Rulemaking published at 37 DCR 6619, 6624 (October 19, 1990).

2213 JOB PLACEMENT

- 2213.1 A school shall maintain records of each student who obtains employment or advancement within a time period to be specified by the Commission as a result of instruction received at the school, and shall report its placement rate to the Commission as part of its application for initial license or license renewal.

SOURCE: Final Rulemaking published at 37 DCR 6619, 6624 (October 19, 1990).

2214 LIBRARY

- 2214.1 A school shall maintain a collection of books, periodicals, newspapers, teaching aids and other instructional materials adequate for the needs of the educational programs of the school.
- 2214.2 A school's collection of books, periodicals, newspapers, teaching aids and other materials shall be readily accessible to the faculty and students, during all hours of school operation.

SOURCE: Final Rulemaking published at 37 DCR 6619, 6624 (October 19, 1990).

2215 PHYSICAL PLANT AND EQUIPMENT

- 2215.1 A school shall provide and maintain a physical plant with living and study conditions appropriate for the programs of study offered and for the size of faculty and student body. The physical plant shall provide a safe and secure environment for the school's students, faculty and staff.
- 2215.2 A school shall comply with all District of Columbia governmental regulations with respect to fire hazards, health, safety, and similar requirements.
- 2215.3 The equipment required for instruction shall be determined by the occupational objective, and shall be comparable to that found in business establishments offering employment in the occupation for which the instruction is being offered.
- 2215.4 A school shall provide adequate equipment in good working order, which shall be of sufficient quality and quantity to meet the maximum authorized enrollment of any class.

SOURCE: Final Rulemaking published at 37 DCR 6619, 6624 (October 19, 1990).

2216 CATALOG

2216.1 A school shall publish a bulletin or catalog no less than every two (2) years that includes the following information:

- (a) The name and address of the school;
- (b) Identifying data, such as catalog number and date of publication;
- (c) Names of owners and officers, including any governing boards, and faculty;
- (d) The school calendar, including holidays, enrollment periods and the beginning and ending dates of terms, courses or programs as may be appropriate;
- (e) The school's enrollment procedures and entrance requirements, including late enrollment, if permitted;
- (f) A description of the school's placement assistance, or if no assistance is offered, a statement to that effect;
- (g) The school's attendance policy including minimum attendance requirements, and the following:
 - (1) The circumstances under which a student may be suspended or removed for unsatisfactory attendance; and
 - (2) The conditions under which a student may subsequently be readmitted;
- (h) The school's policy concerning satisfactory progress, including the following:
 - (1) How progress is measured and evaluated, including an explanation of any system of grading used;
 - (2) The conditions under which the student may be readmitted if terminated for unsatisfactory progress; and
 - (3) A description of any probation policy;
- (i) The school's system for making progress reports to students;
- (j) The school's policy regarding student conduct, including causes for dismissal and conditions for readmission;
- (k) A description of the school's facilities and equipment used for training;
- (l) A description of each approved educational service offered including objectives, tuition, fees, and methods of payment and interest charges; and

the length, or, in the case of correspondence schools, the number of lessons or units of instruction, as appropriate;

- (m) The school's policy concerning credit granted for previous education, training or experience; and
- (n) The school's refund policy, which shall include the statement that the official termination date of enrollment shall be the student's last day in class;
- (o) The school's criteria for determining that a student is in good standing;
- (p) The school's policy governing student withdrawal from enrollment;
- (q) The school's procedure for accepting and resolving grievances and complaints, including a statement that a matter affecting the license may be submitted to the Commission if not resolved by the school; and
- (r) The school's accreditation, if any.

SOURCE: Final Rulemaking published at 37 DCR 6619, 6625 (October 19, 1990).

2217 STUDENT RECORDS

2217.1 A school shall maintain, for a minimum of five (5) years from completion, student records which shall include at least the following:

- (a) A copy of the enrollment contract and other instruments relating to the payment for educational services;
- (b) Student information, including the following:
 - (1) Student name;
 - (2) Permanent or other address at which the student maybe reached;
 - (3) Records relating to financial payments and refunds;
 - (4) Record of attendance for clock hour or contact hour courses; and
 - (5) Basis for admission;
- (c) Basis for admission, and date of completion or termination of training and the reasons;
- (d) Record of any student grievance and subsequent resolution; and
- (e) Copies of all correspondence or other records relating to the recruitment, enrollment and placement of the student.

- 2217.2 A school shall maintain as a permanent record and provide, upon request, a transcript to the student who has satisfied all financial obligations currently due and payable to the school. This transcript of the individual student's record of achievement shall be maintained as a permanent record in a form that provides at least the following:
- (a) Name of student;
 - (b) Title of program, including total number of hours of training received and dates of enrollment;
 - (c) Grade record of each course, lesson or unit of instruction and the cumulative grade for the program; and
 - (d) Certificate, diploma or other credential awarded.
- 2217.3 In support of student academic records, a school shall also maintain as a permanent record descriptions of courses of instruction offered each term, and evidence of any accreditation during any period.

SOURCE: Final Rulemaking published at 37 DCR 6619, 6626 (October 19, 1990).

2218 PUBLICITY AND ADVERTISING

- 2218.1 A school shall submit to the Commission, at the time of publication or use, copies of all advertising used by the school, including transcripts of radio and television commercials. Foreign language advertising shall be submitted accompanied by an English translation.
- 2218.2 No school or its agent shall promise or imply a guarantee of placement or employment for graduates, nor include such a promise or implication in any advertisement; nor shall they misrepresent any aspect of the offering being made to prospective students.
- 2218.3 No school shall solicit students in the employment columns or any similar columns of newspapers or other publications with headings such as "Help-Wanted," "Employment," or "Business Opportunities."
- 2218.4 All claims to prospective students about future employment, earnings, financial aid or other benefits shall be based upon reasonable evidence maintained by the school, which evidence shall be available for inspection by all parties to whom the claims are made, including the Commission.
- 2218.5 No school or its agent shall advertise or otherwise imply that the school is "supervised," "recommended," "endorsed," "accredited," or "approved" by the Commission or any other department or agency of the District government.

- 2218.6 A school may include in its advertising the following legend: "This school is licensed under the Postsecondary School Regulations of the District of Columbia" or "Licensed by D.C. Education Licensure Commission."

SOURCE: Final Rulemaking published at 37 DCR 6619, 6627 (October 19, 1990).

2219 REFUND POLICIES

- 2219.1 A school shall furnish to the Commission a schedule of its tuition and fees and its prepaid tuition plan and refund policy.
- 2219.2 A school shall provide each student seventy-two (72) hours to rescind any contract and to receive a refund of all fees and tuition. This period shall commence from the date of the signing but shall not include or end on any Saturday or Sunday or legal holiday.
- 2219.3 A school shall provide each student, on a separate sheet, notice of the student's right to rescind the contract within seventy-two (72) hours of signing and notice of the fact that, upon rescission, the school shall refund all monies advanced to the school, including the registration fee.
- 2219.4 A school shall provide each student a copy of the school's tuition plan and refund policy at the time of enrollment.
- 2219.5 The Commission shall approve each school's refund policy only when it provides that the amount retained by the school does not exceed an amount calculated in accordance with the following standards:
- (a) The enrollment or registration fee shall be separately stated and the non-refundable portion shall either be twenty-percent (20%) of the total cost of the course or fifty dollars (\$50), whichever is less; Provided, that this refund policy shall apply only after the seventy-two (72) hour period immediately following the signing has expired;
 - (b) The school shall refund all monies paid in excess of the nonrefundable portion of the enrollment or registration fee when an enrolled student requests, in the manner provided in the contract, upon cancellation before the student's scheduled classes begin; Provided, that this provision shall not apply to non-immigrant alien students; and
 - (c) If a student enters training and withdraws or is discontinued from training prior to completion of seventy-five percent (75%) of the scheduled program, the school shall refund to the student a sum which is the exact *pro rata* portion of tuition unexpended by the student, within five (5) dollars.
- 2219.6 The prorated amount under §2219.5(c) shall be determined by the ratio of the number of weeks or lessons in series of instruction completed by the student to the total number of weeks of instruction offered. Any portion of a week's attendance by a student shall be considered a full week's attendance for the purpose of this

section. In the case of correspondence schools, any portion of a lesson in series shall be considered as a completed series.

- 2219.7 No school shall request or accept more than ten percent (10%) of the total tuition prior to commencement of the program or schedule, except that this requirement shall not apply to non-immigrant alien students.
- 2219.8 A school shall make every effort to ensure that enrolled students intend to complete the program in which enrolled.
- 2219.9 A school shall keep adequate records to ensure that students who delay in requesting a refund are accommodated; Provided, that the school is not required to honor a refund request submitted ninety (90) days after the end of the scheduled program for which the student was enrolled.
- 2219.10 Any refund required to be made to a non-immigrant alien student by the provisions of this section shall be payable to that student as follows:
- (a) Within thirty (30) days after the Immigration and Naturalization Service of the United States has certified to the school which is obligated to make the refund that the non-immigrant alien student has departed from the United States; and
 - (b) Only in the legal currency of the country of which the non immigrant alien student is a citizen.

SOURCE: Final Rulemaking published at 37 DCR 6619, 6628 (October 19, 1990).

2220 CREDIT TRANSACTIONS

- 2220.1 A school shall not use any contract provision, oral or written representation, or other device or means to deny or abridge the benefits of any applicable Federal or District law or regulation intended to protect consumers or credit purchasers.
- 2220.2 A school shall not negotiate or assign a promissory note or other instrument of indebtedness executed by or on behalf of a student or the student's parents or guardians without first endorsing on the face of it a legend stating "Any holder takes this instrument subject to the terms and conditions of the contract which gave rise to the debt evidenced hereby."

SOURCE: Final Rulemaking published at 37 DCR 6619, 6630 (October 19, 1990).

2221 APPLICATION FOR INITIAL LICENSURE

- 2221.1 A school shall submit to the Commission an application for initial licensure in such form as the Commission may prescribe, and shall not begin offering instruction until a license to do so is issued by the Commission.

2221.2 An application for initial licensure shall contain a description of the manner in which the school complies with each standard for licensure set forth in §§2205 through 2220 of this chapter, or a statement requesting waiver by the Commission of any such standard, in whole or in part, and describing the reasons why such a waiver is considered justified.

2221.3 In addition, an application for initial licensure shall include the following:

- (a) The names of the owner or owners, officers, members of the board of directors, managing employees within the District and any other person or business entity having a ten percent (10%) or more ownership interest in the school;
- (b) The form and contents of the student enrollment agreement and contract (if not the same as enrollment agreement), which shall include the school's tuition and refund policy;
- (c) A schedule of all tuition, fees, and other charges;
- (d) Annual applications for all agents authorized to represent the school in soliciting prospective students;
- (e) Copies of all advertising used by the school during the preceding twelve (12) months including transcripts of radio and television commercials;
- (f) Two (2) certified copies of the bulletin or catalog;
- (g) A copy of the most recent financial statement of the school prepared by a certified public accountant within twelve months of the application, or other financial statement acceptable to the Commission;
- (h) A copy of the school's Certificate of Occupancy and the lease or title to the building or buildings to be used;
- (i) The estimated student enrollment at each location in the District and distribution by program of instruction;
- (j) A certificate of Non-Discrimination, in conformance with the D.C. Human Rights Act;
- (k) A statement of the accreditation status of the school which fully describes the following:
 - (1) Existing school accreditation, if any, including the period of accreditation and the expiration date;
 - (2) The type and scope of accreditation;
 - (3) The name of the issuing association, organization or agency;

- (4) The status and scope of any pending applications for accreditation;
 - (5) Any probation or conditions of existing accreditation; and
 - (6) Any revocations of accreditation or other actions limiting accreditation during the ten years preceding application to the Commission for license;
- (l) A statement describing any authorizations and licenses, other than accreditation, which the school may have from another jurisdiction, which shall include the following:
- (1) The type of certificate, license or exemption;
 - (2) The name of the issuing agency;
 - (3) The term and expiration date of the certificate or license;
 - (4) Any conditions to which the certificate or license is subject;
 - (5) Any application for licensure pending;
 - (6) Any revocations or other limiting actions by the issuing agency or organization during the ten (10) years preceding application to the Commission for licensure; and
 - (7) Any denials of an application for a license or certificate during the ten years preceding the application to the Commission for licensure, and the reasons for the denial;
- (m) A statement of the school's calculation of retention and placement rates, according to the Commission's guidelines;
- (n) The license fee and surety required by this chapter; and
- (o) Any other information as the Commission may require.

SOURCE: Final Rulemaking published at 37 DCR 6619, 6630 (October 19, 1990).

2222 APPLICATION FOR LICENSE RENEWAL

- 2222.1 No less than sixty (60) days prior to the expiration of a license, a licensee wishing to renew a license shall submit to the Commission an application for renewal of the license, in such form as the Commission may require.
- 2222.2 An application for renewal of a license shall include the following:

- (a) A description of any differences in its ownership, locations, organization, program, officers or faculty since the previous licensure action by the Commission;
- (b) A description of any such changes proposed during the period of license renewal;
- (c) A description of the means whereby the school has satisfied any conditions of the current license by the Commission, or a statement justifying the renewal of the license in view of all such conditions not having been satisfied;
- (d) A copy of the most recent financial statement of the school, prepared within twelve (12) months of the application by a certified public accountant, or other financial statement acceptable to the Commission;
- (e) A statement of the calculation of the school's retention and placement rates;
- (f) The licensure fees and sureties required by this chapter; and
- (g) Any other information as the Commission may require.

SOURCE: Final Rulemaking published at 37 DCR 6619, 6632 (October 19, 1990).

2223 APPLICATION FOR LICENSE AMENDMENT

2223.1 A school licensed by the Commission shall submit an application for an amended license in a form determined by the Commission, whenever there is a change in ownership, locations subject to the license, certificates offered, or other condition of the license that, in the opinion of the Commission, requires an amendment.

2223.2 An application for an amended license to authorize a new program or certificate shall include the following:

- (a) The reason for offering the new program of study;
- (b) An outline of the curriculum for the new program of study;
- (c) A listing and summary of courses required for the new program;
- (d) The qualifications of the faculty to be involved in the new program of study;
- (e) The anticipated enrollment for the new program;
- (f) The financial resources to support the new program of study;
- (g) A description of how the new program of study relates to the objectives of the school;
- (h) Any licensure fee and surety required by this chapter; and

- (i) Any other information as the Commission may require.

2223.3 An application for amendment of the license to include authority for new programs of study, location or ownership shall be subject to the same requirements as an application for initial licensure, including site evaluation, if the Commission deems such a visit to be necessary.

SOURCE: Final Rulemaking published at 37 DCR 6619, 6633 (October 19, 1990).

2224 MONITORING COMPLIANCE

2224.1 The Commission may monitor a school's compliance with this chapter by means of a site evaluation visit by representatives of the Commission, by other inspections and by review of reports and other information required by this chapter.

2224.2 The premises and all records of a school shall be made accessible to a representative of the Commission for inspection during normal business hours.

2224.3 On reasonable notice, the Commission may require a site evaluation by, or report to the Commission, regarding compliance with any requirement of this chapter.

2224.4 The Commission may appoint a site evaluation team, which may consist of Commissioners or Commission staff members, or both, and such independent evaluators as the Commission deems necessary to assist the Commission in the evaluation, appraisal and review of an application for licensure or amendment, or investigation of a complaint.

2224.5 A Commission member or a staff member of the Commission, or both, may serve as observers of the evaluation team.

2224.6 The purpose of a site visit shall be to verify information submitted by the applicant or licensee, and otherwise determine compliance with the requirements of this chapter. It may include, but not be limited to, the following:

- (a) Interviews with a school's staff;
- (b) Inspection of facilities including administrative offices;
- (c) Review of records, record-keeping procedures, and student support facilities; and
- (d) Review of any other matters as may be relevant to the purpose.

2224.7 A school shall cooperate with the evaluation team in making records and personnel available and shall comply with all reasonable requests by the team, including private interviews and private meeting rooms.

- 2224.8 The Commission may request the school to submit documents containing current information, prior to the initiation of a site evaluation visit by the Commission.
- 2224.9 The evaluation team shall submit a written report with recommendations to the Commission after the site visit, and the Commission shall provide a reasonable opportunity for review of the report and comment by the school.
- 2224.10 The Commission shall consider the evaluation team report as one basis for a subsequent action on the license.
- 2224.11 An accredited school, or one seeking accreditation, shall make provision for a representative of the Commission to accompany teams of evaluators on all visits to the school's facilities in the District by evaluators from an accrediting commission, at no cost to the Commission, and furnish to the Commission within thirty (30) days of receipt a copy of every final report submitted to and received from the accreditation commission, including the reports of any site evaluation submitted to the school by the accrediting commission and notices of accrediting commission action regarding accreditation of the school.

SOURCE: Final Rulemaking published at 37 DCR 6619, 6633 (October 19, 1990).

2225 SURETY REQUIREMENT

- 2225.1 A school shall provide a bond or other surety acceptable to the Commission so long as the school operates within the District of Columbia.
- 2225.2 The bond or surety shall be payable to the Commission for the purpose of protecting students should the school declare bankruptcy or otherwise breach its contract with its students by terminating an educational program without providing adequate student refund or teach-out arrangements.
- 2225.3 A student, or the student's parent or guardian, who is aggrieved by an action under §2225.2 has a right of action on the bond for the recovery of money, or damages, or both.
- 2225.4 The amount of surety required to be filed by a school shall be as follows:

<u>Number Students Enrolled</u>			<u>Annual Net Tuition Received</u>	<u>Amount of Surety</u>
50	or fewer	and	\$100,000 or less	\$5,000
51	to 150	or	\$100,000 to \$1,000,000	\$10,000
151	or more	or	\$1,000,001 and up*	\$20,000

SOURCE: Final Rulemaking published at 37 DCR 6619, 6635 (October 19, 1990).

EDITOR'S NOTE: The Final Rulemaking had "\$1,000,001 to \$1,000,000." The entry next to the asterisk reflects the agency's actual intent.

2226 AGENT LICENSES

- 2226.1 An agent of any school located outside of the District which would be subject to licensure under this chapter if it were to operate within the District, who solicits students within the District shall be licensed by the Commission, as specified in this chapter.
- 2226.2 An agent shall make application to the Commission for an agent's license, upon forms provided by the Commission. An agent shall obtain a separate license for each school the agent represents.
- 2226.3 An agent's license shall be issued for a period of not more than one (1) year beginning on November 1st and expiring the following October 31st.
- 2226.4 An agent shall file an application for renewal of a license sixty (60) days prior to the expiration of the license, accompanied by the required surety and licensing fee.
- 2226.5 The Commission, upon approval of an application for an agent's license, shall prepare and deliver to each agent an identification card containing the name and address of the agent and the employing school, and certifying that the person whose name appears on the card is an authorized agent of that school.
- 2226.6 An agent shall carry the identification card and show it to prospective students upon request.
- 2226.7 An agent shall be a person of good character, who understands and can present fully and accurately to prospective students or enrollees the educational program being offered, the requirements for admission and graduation, and the fees for such programs and any other conditions of the offering.

SOURCE: Final Rulemaking published at 37 DCR 6619, 6635 (October 19, 1990).

2227 AGENT'S SURETY

- 2227.1 The Commission shall not issue or review an agent's license until the applicant for the license has filed with the Commission a corporate surety bond or other security approved by the Commission.
- 2227.2 The surety bond shall be payable to the Commission.
- 2227.3 A student, or the student's parent or guardian, who is aggrieved by a violation of this chapter by an agent shall have a right of action on the bond for the recovery of money, or damages, or both.
- 2227.4 The amount of bond required to be filed under this section shall be twenty-five hundred dollars (\$2,500).

2227.5 A school may file a blanket surety bond for all its authorized agents in an amount to be determined by the Commission, but in no case greater than fifteen thousand dollars (\$15,000).

SOURCE: Final Rulemaking published at 37 DCR 6619, 6636 (October 19, 1990).

2228 LICENSING FEES

2228.1 A school and each agent licensed by the Commission under this chapter shall pay a licensing fee to the Commission as follows:

- (a) The amount of the licensing fee for a school shall be two hundred and twenty-five dollars (\$225.00) per year; and
- (b) The amount of the licensing fee for an agent shall be eighty-five dollars (\$85.00) per year.

2228.2 The licensing fee shall be submitted with an application for initial licensure and license renewal.

2228.3 In the case of an initial licensee, the Commission shall *pro-rate* the licensing fee in the amount of one-twelfth of the fee for every month remaining in the licensing year.

SOURCE: Final Rulemaking published at 37 DCR 6619, 6636 (October 19, 1990).

2229 CLOSING AN INSTITUTION

2229.1 A school which closes shall make arrangements for its students and for the safekeeping of its records, as set forth in this section.

2229.2 Closure of a school shall be done in accordance with a written plan which is submitted to the Commission at least ninety (90) days prior to closure and approved by the Commission, and which states how the school will comply with the requirements of this section.

2229.3 The closure plan and actions to close a school shall provide for the following:

- (a) Cease all recruitment activities and bar all new student enrollments;
- (b) Provide all enrolled students an opportunity to complete their program of studies, or to receive maximum assistance for orderly transfer to another educational institution acceptable to the student;
- (c) Notify all enrolled students of the phase-out plan, describing their financial obligations as well as their rights to a refund or adjustment, and provisions made for assistance toward completion of their academic program, whether in the school that is closing, or by transfer;

- (d) Provide the Commission with copies of the closing or phase out notices, including copies of all communications sent to students;
- (e) Make provision for transferring all official records of the students to the Commission's office, and notify students of this location and how they may obtain official copies;
- (f) Notify the Corporations Division of the D.C. Department of Consumer and Regulatory Affairs and other authorities of the status of the school or corporation, including the filing of a final report, if appropriate; and
- (g) Protect the rights of staff, suppliers, and creditors.

2229.4 During the phase-out process, the school shall submit progress reports to the Commission on closure under the plan noting unanticipated or serious problems. The Commission shall monitor the closure, and require the school to comply with the objectives as well as the specific provisions of the approved closure plan.

SOURCE: Final Rulemaking published at 37 DCR 6619, 6637 (October 19, 1990).

2230 TRANSFER OF RECORDS OF CLOSED SCHOOL

2230.1 In the event that any school licensed under this chapter discontinues its operation, the chief executive officer, by whatever title designated, of the school shall cause to be filed with the Commission the original or legible true copies of all records of such school specified by the Commission.

2230.2 The records deposited with the Commission shall include, at a minimum, the academic records of each former student, which shall include:

- (a) Academic transcripts showing the basis for admission, transfer credits, courses, credits, grades, graduation authorization, and student name changes for each student;
- (b) Transcripts of financial aid for each student;
- (c) Foreign student forms for foreign students;
- (d) Veterans Administration records for veterans;
- (e) Copies of degrees, diplomas and certificates awarded to students (if maintained);
- (f) One set of course descriptions for courses shown on transcripts; and
- (g) Evidence of accreditation, if any, during years covered by transcripts.

2230.3 If the Commission transfers the records from the school, the school shall pay the cost of the transfer.

- 2230.4 The Commission shall issue certified copies of transcripts of student courses and grades, and of other documents in the records; and shall furnish other official information from such records to former students and schools to which the former student applies; and may disclose such records to others who have a right to disclosure under law or regulation.

SOURCE: Final Rulemaking published at 37 DCR 6619, 6638 (October 19, 1990).

2231 DENIAL, SUSPENSION AND REVOCATION

- 2231.1 In accordance with procedures consistent with the provisions of the District of Columbia Administrative Procedure Act approved October 22, 1968 (82 Stat. 1204; D.C. Code §§1-1501 *et seq.*), and §2234 of this chapter, the Commission may suspend or revoke the license of a school for failure to comply with the provisions of this chapter, and may refuse to issue a license.

- 2231.2 If the Commission have reason to believe that a licensed institution is not in compliance with the requirements of law or this chapter, the Commission may, at its own expense, conduct such investigation as it deems necessary to issue a notice under §2234 of this chapter, including a site evaluation visit.

SOURCE: Final Rulemaking published at 37 DCR 6619, 6638 (October 19, 1990).

2232 COMPLAINTS

- 2232.1 The Commission, on its own motion or on the receipt of a complaint submitted in accordance with this section, may request the Executive Director to investigate an applicant or licensee if the facts alleged in the complaint, if proven, would constitute a violation of the requirements of this chapter.

- 2232.2 A person who desires to file a complaint against an applicant or licensee shall do the following:

- (a) Submit the complaint in writing;
- (b) Sign the complaint and state the complainant's name and address; and
- (c) Mail or deliver the complaint to the Commission.

- 2232.3 Nothing in §2232.2 precludes the Commission, on its own motion, from requesting the Executive Director to investigate an applicant or licensee based on information obtained from a Commissioner or a Commission staff member.

- 2232.4 Upon receiving a complaint, the Commission may, in its discretion, request that the applicant or licensee against whom the complaint is made respond in writing to the allegations contained in the complaint. If the Commission requests such a response, it shall inform the applicant or licensee that the Commission may send a copy of the response to the complainant.

- 2232.5 If the Commission receives a written response pursuant to §2232.4, it may, in its discretion, send a copy of the response to the complainant and request a written reply within a time period determined by the Commission.
- 2232.6 After considering a complaint against an applicant or licensee, and any response thereto, the Commission may take one of the following actions:
- (a) Refer the complaint to the Executive Director for further investigation or for monitoring of improvements initiated by the applicant or licensee which are responsive to the complaint;
 - (b) Set the matter for a hearing in accordance with §2233; or
 - (c) Dismiss the complaint.
- 2232.7 If the Commission dismisses a complaint, it shall give the complainant notice in writing, sent by first class mail, of the dismissal of the complaint within ten (10) days of the action.

SOURCE: Final Rulemaking published at 37 DCR 6619, 6639 (October 19, 1990).

2233 NOTICE AND HEARINGS

- 2233.1 The notice to the applicant or licensee shall specify what action is contemplated, the basis for the action, and that the proposed action shall be taken if no hearing is requested, or if the applicant or licensee fails to appear at a requested hearing.
- 2233.2 The notice shall inform the applicant or licensee of the right to request, within ten (10) days from service of notice, a hearing before the Commission.
- 2233.3 If a person who was sent a notice of a proposed action pursuant to §2233.2 does not mail or deliver a request for a hearing within the time and in the manner required under that section, the Commission may, without a hearing, take the action contemplated in the notice.
- 2233.4 If a person scheduled for a hearing does not appear for the hearing, and no continuance is granted, the hearing officer may cancel the hearing, and the Commission may proceed to act; or the hearing officer may receive evidence and hear testimony and the Commission may render a decision on the basis of evidence before it.
- 2233.5 The Commission, prior to rendering a decision, may, upon written request from the respondent and payment of the required fee, send a copy of the transcript or summary of the hearing to the respondent and request proposed findings of fact and conclusions of law from the respondent within thirty (30) days of the scheduled date of the hearing.

- 2233.6 The Commission shall inform the respondent and the Corporation Counsel of an action taken under §2233.3 or 2233.4.
- 2233.7 If a respondent requests a hearing, the Commission shall within thirty (30) days following receipt of the request, notify the respondent of the date, time, and place of the hearing.
- 2233.8 The Commission shall hold the hearing not less than fifteen (15) days following the date of service of the notice under §2233.7, unless the Commission, the respondent, and the Corporation Counsel agree to the holding of the hearing at an earlier date.
- 2233.9 A notice, order or decision required by this chapter to be served upon a party shall be served upon the party or upon the representative designated by the party or by law to receive service of papers. If a party has appeared through counsel, service may be made upon the counsel of record.
- 2233.10 Service on a respondent shall be directed to the last known address of the respondent on file with the Commission and shall be completed by one of the following methods:
- (a) By personal delivery;
 - (b) By leaving it at the party's office with a person in charge or an employee; or, if the office is closed or the party to be served has no office, by leaving it at the party's usual place of residence with a person of suitable discretion sixteen (16) years of age or older residing there;
 - (c) By certified mail, return receipt requested; or
 - (d) In conformity with an order of the Commission made in any hearing.
- 2233.11 If service is by personal delivery, it shall be deemed to have been served at the time when delivery is made to the party, or other person served.
- 2233.12 If service is by certified mail, it shall be deemed to have been made on the date shown on the return receipt showing delivery of the notice to the party or refusal of the party to accept delivery.
- 2233.13 If the party is no longer at the last known address as shown by the records of the Commission, and no forwarding address is available, service shall be deemed to have been made on the date the return receipt bearing that notification is received by the Commission.
- 2233.14 All hearings before the Commission are open to the public.
- 2233.15 A respondent entitled to a hearing has the following rights:
- (a) The right to be represented by an attorney;

- (b) The right to present all relevant evidence by means of witnesses, books, papers, and other documents; and
 - (c) The right to examine opposing witnesses on any matter relevant to the issues.
- 2233.16 After a hearing, and within time limits established by the Commission, the parties may submit proposed findings of fact, conclusions of law, and order, and may also submit memoranda of law on issues of law arising during the hearing.
- 2233.17 All testimony at a hearing before the Commission shall be under oath or affirmation.
- 2233.18 The Commission shall exclude irrelevant, immaterial, and unduly repetitious evidence.
- 2233.19 All parties at a hearing shall maintain decorum and good order at all times, and the Commission may exclude or have removed from the hearing room any person violating any reasonable order of the hearing officer.
- 2233.20 The Commission may authorize a hearing officer designated by the Commission to conduct a hearing in any matter that the Commission is authorized to conduct a hearing under this chapter.
- 2233.21 The hearing officer of the Commission has the powers and duties given to the Commission by this chapter and the act, except the power to render a final decision.
- 2233.22 When there is a hearing, the record shall be closed at the conclusion of the hearing. However, when the hearing officer allows the parties to submit arguments, briefs or documents previously identified for introduction into evidence, the record shall be left open for such time as the hearing officer grants for that purpose.
- 2233.23 The hearing record shall be closed on the date set by the hearing officer as the final date for the receipt of submissions of the parties to any proceeding.
- 2233.24 A recommended decision of a hearing officer shall contain the following:
 - (a) Findings of fact;
 - (b) Conclusions of law based on the findings of fact and application of the laws; and
 - (c) A recommended order.
- 2233.25 The Commission, within sixty (60) days of completion of the hearing, shall render a final decision and notify the respondent and the Corporation Counsel of the action.

- 2233.26 The Commission may, with the agreement of all parties, extend the sixty (60) day period in which it is required to render a decision.
- 2233.27 If the decision proposed by the hearing officer is adverse to the respondent, the Commission, prior to issuing a final decision, shall serve the respondent with a copy of the decision and give the respondent an opportunity to file with the Commission within ten (10) days of the date of service exceptions, and written argument in support thereof.
- 2233.28 Respondent's submission under §2233.27 shall set forth objections to the findings and recommendations of the hearing officer supported by reference to the record.
- 2233.29 The Commission may adopt the decision recommended by the hearing officer, in whole or in part. The Commission shall issue a final decision and order a date for compliance.
- 2233.30 In a hearing resulting from a proposed action to reduce, suspend or revoke a license, the Commission has the burden of proving by a preponderance of the evidence that the action should be taken.
- 2233.31 In a hearing resulting from a proposed action to deny a license, the applicant has the burden of satisfying the Commission of the applicant's qualifications by a preponderance of the evidence.
- 2233.32 In all hearings conducted under this chapter, the Commission shall make a complete record of all evidence presented during the course of a hearing.
- 2233.33 The Commission shall make a transcript of a hearing on a proposed action, unless the parties and the Commission agree not to have a transcript made.
- 2233.34 If the Commission does not make a transcript of the hearing, it shall make an electronic recording of the hearing.
- 2233.35 The Commission shall provide a copy of an approved transcript or recording of a hearing to any person requesting it, upon payment of the required fee.
- 2233.36 In the event of disputes with respect to the record, the Commission shall settle the record and rule on all contested motions to correct the record.
- 2233.37 A decision of the Commission shall contain the following:
- (a) Findings of fact;
 - (b) Conclusions of law based upon the findings of fact and application of the laws;
 - (c) An order; and
 - (d) A statement informing the respondent of the right to have the decision reviewed by the District of Columbia Court of Appeals, and the time

within which judicial review must be sought according to the rules of that Court.

- 2233.38 The Chair of the Commission shall sign an order, decision, or other document of the Commission on behalf of the Commission; Provided, that the Commission by majority vote may designate another member to sign.
- 2233.39 Within five (5) days after a decision is rendered, the Commission shall serve a copy of the written decision upon the respondent, or the respondent's counsel of record.
- 2233.40 The Commission, on motion by a respondent, may, for good reason, stay the imposition of an order pending appeal or reconsideration.
- 2233.41 In computing any period of time specified in this chapter, "day" shall mean calendar day; except that the day of the act, event, or default shall not be counted, and the last day of the period shall be counted unless it is a Saturday, Sunday, legal holiday, or day on which the Commission is officially closed, in which event the time period shall continue until the next day that is not a Saturday, Sunday, legal holiday, or day on which the Commission is officially closed.

SOURCE: Final Rulemaking published at 37 DCR 6619, 6640 (October 19, 1990).

2234 REOPENING A HEARING

- 2234.1 If, because of accident, sickness, or other good cause, a respondent fails to receive a notice of a hearing or fails to appear for a hearing, the respondent may, within fifteen (15) days from the date of service of the decision, apply to the Commission to reopen the hearing.
- 2234.2 If the Commission finds good cause to reopen a hearing, the Commission shall, as soon as practicable, fix a time and place for a hearing and give the parties notice of the hearing.
- 2234.3 The Commission may reopen a hearing for any cause sufficient to the Commission, provided that no appeal is pending before a court or has been decided by a court.
- 2234.4 A decision of the Commission on whether to reopen a hearing is within the discretion of the Commission.

SOURCE: Final Rulemaking published at 37 DCR 6619, 6644 (October 19, 1990).

2235 RECONSIDERATION

- 2235.1 A respondent may file with the Commission a petition for reconsideration within fifteen (15) days after the date of the service of the decision on that party. The petitioner shall serve a copy of the petition on each party.

- 2235.2 Neither the filing nor the granting of a petition shall operate as a stay of a decision unless specifically ordered by the Commission. The Commission may grant a stay only upon good cause involving consideration of the likelihood of decisional error, irreparable harm to the petitioning party, the harm to other parties, and the public interest.
- 2235.3 A petition shall state briefly and specifically the following:
- (a) The matters of record or points of law alleged to have been erroneously decided or overlooked;
 - (b) The grounds relied upon; and
 - (c) The relief sought.
- 2235.4 If a petition is based in whole or in part on new matter, the matter shall be set forth in an affidavit, containing a statement that the petitioner could not with due diligence have known or have discovered the new matter prior to the hearing before the Commission.
- 2235.5 The Commission may, in the Commission's discretion, permit or require oral argument upon a petition.
- 2235.6 The Commission shall grant or deny a petition within forty-five (45) days after the filing of the petition. The failure by the Commission to act within that period shall constitute a denial of the petition.

SOURCE: Final Rulemaking published at 37 DCR 6619, 6644 (October 19, 1990).

2236 IMPLEMENTATION

- 2236.1 The Commission may issue one or more handbooks setting forth administrative procedures, guidelines and forms to be used to carry out this chapter.

SOURCE: Final Rulemaking published at 37 DCR 6619, 6645 (October 19, 1990).

2299 DEFINITIONS

- 2299.1 When used in this chapter, the following terms and phrases shall have the meanings ascribed in D.C. Law 1-104, D.C. Code §31-1602 (1993 Repl. Vol.), and as follows:

School - a non-degree, postsecondary educational institution, including institutions offering any program of post-doctoral studies that results in award of a certificate, whether or not offered by a degree-granting institution, unless such institution is granted a license or conditional exemption by the Commission under Chapter 22 of this title.

SOURCE: Final Rulemaking published at 37 DCR 6619, 6645 (October 19, 1990).

